
SENATE BILL 5207

State of Washington 60th Legislature 2007 Regular Session

By Senators Haugen, Murray and Spanel

Read first time 01/12/2007. Referred to Committee on Transportation.

1 AN ACT Relating to creating the freight congestion relief account
2 to improve freight corridors with funding from the imposition of a fee
3 on the processing of shipping containers; reenacting and amending RCW
4 43.84.092; adding a new chapter to Title 47 RCW; and prescribing
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds and declares there is
8 a need to mitigate the enormous burden imposed on the state
9 transportation system by the overland movement of cargo shipped to and
10 from Washington state ports. Accordingly, it is the intent of the
11 legislature to alleviate this burden by imposing a fee on the
12 processing of shipping containers through those ports and use the funds
13 derived therefrom to provide congestion relief through the improvement
14 of freight rail systems and state highways that function as freight
15 corridors.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

18 (1) "Department" means the department of revenue.

1 (2) "Marine terminal operator" means a person engaged in the state
2 of Washington in the business of furnishing use of a wharf, dock,
3 warehouse, or other terminal services and facilities including, but not
4 limited to, all activities of a labor, service, or transportation
5 nature where cargo is documented, handled, moved, or loaded/unloaded
6 from vessels involved in waterborne commerce.

7 (3) "Twenty-foot equivalent unit" means a measure of containerized
8 cargo capacity equal to one standard twenty foot (length) by eight foot
9 (width) by eight foot and six inches (height) container.

10 NEW SECTION. **Sec. 3.** (1) A fee is imposed on the processing of
11 shipping containers in the ports of Washington state.

12 (2) The fee must be imposed at the rate of fifty dollars per
13 twenty-foot equivalent unit and is payable by the marine terminal
14 operator processing the container. Every marine terminal operator
15 engaged in processing twenty-foot equivalent units may retain ten
16 percent of the fifty-dollar fee collected. The moneys retained may be
17 used for costs associated with the proper collection and reporting of
18 twenty-foot equivalent units processed. The retained amount must be
19 reported as gross income under the service and other activities tax
20 classification on the excise tax return.

21 (3) The twenty-foot equivalent unit fee collected by marine
22 terminal operators, less the ten percent amount retained by the marine
23 terminal operator as provided in subsection (2) of this section, must
24 be paid to the department in accordance with RCW 82.32.045.

25 (4) The department must incorporate into the agency's regular audit
26 cycle a reconciliation of the number of twenty-foot equivalent units
27 processed and the amount of revenue collected by the marine terminal
28 operators processing twenty-foot equivalent units. The department must
29 collect from marine terminal operators processing twenty-foot
30 equivalent units the following information, which shall be required to
31 be reported on the appropriate business excise tax return form, as
32 determined by the department:

33 (a) All fees required to be collected under this section during the
34 previous month;

35 (b) A list of all freight containers processed by the marine
36 terminal operator during the previous month; and

1 (c) Satisfactory proof, as determined by the department, that the
2 fee was imposed on each twenty-foot equivalent unit processed.

3 (5) All other applicable provisions of chapter 82.32 RCW apply with
4 respect to the fee imposed under this section. The department shall
5 administer this section.

6 (6) A fee imposed under this section is to take effect no sooner
7 than seventy-five days after the department receives notice, and is to
8 take effect only on the first day of January, April, July, or October.
9 Unless waived by the department, notice includes providing the
10 appropriate department with digital mapping and legal descriptions of
11 areas in which the fee will be collected.

12 NEW SECTION. **Sec. 4.** The freight congestion relief account is
13 created in the state treasury. All receipts from twenty-foot
14 equivalent unit fees imposed under section 3 of this act must be
15 deposited in the account. Moneys in the account may be spent only
16 after appropriation. Expenditures from the account may only be used to
17 provide congestion relief through the improvement of freight rail
18 systems and state highways that function as freight corridors.

19 NEW SECTION. **Sec. 5.** (1) The fee required by this chapter, to be
20 collected by the marine terminal operator, must be deemed to be held in
21 trust by the marine terminal operator until paid to the department, and
22 any marine terminal operator who appropriates or converts the fee
23 collected to his or her own use or to any use other than the payment of
24 the fee to the extent that the money required to be collected is not
25 available for payment on the due date as prescribed in this chapter is
26 guilty of a gross misdemeanor, as provided in RCW 9A.20.021.

27 (2) If a marine terminal operator fails to collect the fee imposed
28 in this chapter or, having collected the fee, fails to pay it to the
29 department in the manner prescribed by this chapter, whether such
30 failure is the result of his or her own acts or the result of acts or
31 conditions beyond his or her control, he or she shall, nevertheless, be
32 personally liable to the state for the amount of the fee.

33 **Sec. 6.** RCW 43.84.092 and 2006 c 337 s 11, 2006 c 311 s 23, 2006
34 c 171 s 10, 2006 c 56 s 10, and 2006 c 6 s 8 are each reenacted and
35 amended to read as follows:

1 (1) All earnings of investments of surplus balances in the state
2 treasury shall be deposited to the treasury income account, which
3 account is hereby established in the state treasury.

4 (2) The treasury income account shall be utilized to pay or receive
5 funds associated with federal programs as required by the federal cash
6 management improvement act of 1990. The treasury income account is
7 subject in all respects to chapter 43.88 RCW, but no appropriation is
8 required for refunds or allocations of interest earnings required by
9 the cash management improvement act. Refunds of interest to the
10 federal treasury required under the cash management improvement act
11 fall under RCW 43.88.180 and shall not require appropriation. The
12 office of financial management shall determine the amounts due to or
13 from the federal government pursuant to the cash management improvement
14 act. The office of financial management may direct transfers of funds
15 between accounts as deemed necessary to implement the provisions of the
16 cash management improvement act, and this subsection. Refunds or
17 allocations shall occur prior to the distributions of earnings set
18 forth in subsection (4) of this section.

19 (3) Except for the provisions of RCW 43.84.160, the treasury income
20 account may be utilized for the payment of purchased banking services
21 on behalf of treasury funds including, but not limited to, depository,
22 safekeeping, and disbursement functions for the state treasury and
23 affected state agencies. The treasury income account is subject in all
24 respects to chapter 43.88 RCW, but no appropriation is required for
25 payments to financial institutions. Payments shall occur prior to
26 distribution of earnings set forth in subsection (4) of this section.

27 (4) Monthly, the state treasurer shall distribute the earnings
28 credited to the treasury income account. The state treasurer shall
29 credit the general fund with all the earnings credited to the treasury
30 income account except:

31 (a) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's and fund's
33 average daily balance for the period: The capitol building
34 construction account, the Cedar River channel construction and
35 operation account, the Central Washington University capital projects
36 account, the charitable, educational, penal and reformatory
37 institutions account, the Columbia river basin water supply development
38 account, the common school construction fund, the county criminal

1 justice assistance account, the county sales and use tax equalization
2 account, the data processing building construction account, the
3 deferred compensation administrative account, the deferred compensation
4 principal account, the department of retirement systems expense
5 account, the developmental disabilities community trust account, the
6 drinking water assistance account, the drinking water assistance
7 administrative account, the drinking water assistance repayment
8 account, the Eastern Washington University capital projects account,
9 the education construction fund, the education legacy trust account,
10 the election account, the emergency reserve fund, the energy freedom
11 account, The Evergreen State College capital projects account, the
12 federal forest revolving account, the freight congestion relief
13 account, the freight mobility investment account, the freight mobility
14 multimodal account, the health services account, the public health
15 services account, the health system capacity account, the personal
16 health services account, the state higher education construction
17 account, the higher education construction account, the highway
18 infrastructure account, the high-occupancy toll lanes operations
19 account, the industrial insurance premium refund account, the judges'
20 retirement account, the judicial retirement administrative account, the
21 judicial retirement principal account, the local leasehold excise tax
22 account, the local real estate excise tax account, the local sales and
23 use tax account, the medical aid account, the mobile home park
24 relocation fund, the multimodal transportation account, the municipal
25 criminal justice assistance account, the municipal sales and use tax
26 equalization account, the natural resources deposit account, the oyster
27 reserve land account, the pension funding stabilization account, the
28 perpetual surveillance and maintenance account, the public employees'
29 retirement system plan 1 account, the public employees' retirement
30 system combined plan 2 and plan 3 account, the public facilities
31 construction loan revolving account beginning July 1, 2004, the public
32 health supplemental account, the public works assistance account, the
33 Puyallup tribal settlement account, the real estate appraiser
34 commission account, the regional mobility grant program account, the
35 resource management cost account, the rural Washington loan fund, the
36 site closure account, the small city pavement and sidewalk account, the
37 special wildlife account, the state employees' insurance account, the
38 state employees' insurance reserve account, the state investment board

1 expense account, the state investment board commingled trust fund
2 accounts, the supplemental pension account, the Tacoma Narrows toll
3 bridge account, the teachers' retirement system plan 1 account, the
4 teachers' retirement system combined plan 2 and plan 3 account, the
5 tobacco prevention and control account, the tobacco settlement account,
6 the transportation infrastructure account, the transportation
7 partnership account, the tuition recovery trust fund, the University of
8 Washington bond retirement fund, the University of Washington building
9 account, the volunteer fire fighters' and reserve officers' relief and
10 pension principal fund, the volunteer fire fighters' and reserve
11 officers' administrative fund, the Washington fruit express account,
12 the Washington judicial retirement system account, the Washington law
13 enforcement officers' and fire fighters' system plan 1 retirement
14 account, the Washington law enforcement officers' and fire fighters'
15 system plan 2 retirement account, the Washington public safety
16 employees' plan 2 retirement account, the Washington school employees'
17 retirement system combined plan 2 and 3 account, the Washington state
18 health insurance pool account, the Washington state patrol retirement
19 account, the Washington State University building account, the
20 Washington State University bond retirement fund, the water pollution
21 control revolving fund, and the Western Washington University capital
22 projects account. Earnings derived from investing balances of the
23 agricultural permanent fund, the normal school permanent fund, the
24 permanent common school fund, the scientific permanent fund, and the
25 state university permanent fund shall be allocated to their respective
26 beneficiary accounts. All earnings to be distributed under this
27 subsection (4)(a) shall first be reduced by the allocation to the state
28 treasurer's service fund pursuant to RCW 43.08.190.

29 (b) The following accounts and funds shall receive eighty percent
30 of their proportionate share of earnings based upon each account's or
31 fund's average daily balance for the period: The aeronautics account,
32 the aircraft search and rescue account, the county arterial
33 preservation account, the department of licensing services account, the
34 essential rail assistance account, the ferry bond retirement fund, the
35 grade crossing protective fund, the high capacity transportation
36 account, the highway bond retirement fund, the highway safety account,
37 the motor vehicle fund, the motorcycle safety education account, the
38 pilotage account, the public transportation systems account, the Puget

1 Sound capital construction account, the Puget Sound ferry operations
2 account, the recreational vehicle account, the rural arterial trust
3 account, the safety and education account, the special category C
4 account, the state patrol highway account, the transportation 2003
5 account (nickel account), the transportation equipment fund, the
6 transportation fund, the transportation improvement account, the
7 transportation improvement board bond retirement account, and the urban
8 arterial trust account.

9 (5) In conformance with Article II, section 37 of the state
10 Constitution, no treasury accounts or funds shall be allocated earnings
11 without the specific affirmative directive of this section.

12 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
13 a new chapter in Title 47 RCW.

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